

CODE OF MASSACHUSETTS REGULATIONS

211 CMR. -- DIVISION OF INSURANCE

211 CMR 115.00 -- REQUIREMENTS APPLICABLE TO WORKERS'
COMPENSATION DEDUCTIBLE POLICIES

211 CMR 115.01 Purpose and scope

The purpose of 211 CMR 115.00 is to regulate the conditions under which insurers may provide workers' compensation insurance coverage to employers in Massachusetts under large deductible policies and to provide for the administration and implementation of such regulation. All workers' compensation deductible policies shall conform to the conditions and limitations set forth below and to the conditions and limitations set forth in 211 CMR 113.00.

Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.

211 CMR 115.02 Authority

211 CMR 115.00 is promulgated in accordance with the authority granted by M.G.L. c. 152, §§ 25A, 53A, 55, 55A, and by M.G.L. c. 175, §§ 3A, 4, 5 and 6, and by the authority granted generally by M.G.L. c. 152, c. 175, and c. 176D.

Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.

211 CMR 115.03 Definitions

As used in 211 CMR 115.00 the following words shall have the meanings indicated.

ARAP means any premium produced by the All Risk Adjustment Program or any similar worker's compensation rating program approved by the Commissioner.

Commissioner means the Commissioner of Insurance or his or her designee.

Insureds means employers who have contracted with a licensed insurance company, reciprocal or interinsurance exchange for the payment of the compensation required under the provisions of M.G.L. c. 152.

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Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.

211 CMR 115.04 (Reserved)

211 CMR 115.05 Minimum requirements for deductible policies

- (1) The first dollar loss and expense experience resulting from all deductible policies shall be reported by the insurer for all statistical purposes.
- (2) The following rules must be adhered to in all large deductible policies and plans:
 - (a) Only those Massachusetts insureds whose workers' compensation full coverage standard premium plus ARAP would otherwise exceed \$375,000 of Massachusetts premium are eligible, provided, however, that insureds with either (i) at least \$50,000 of annual non-Massachusetts workers' compensation premium or (ii) at least \$10,000 of annual non-Massachusetts workers' compensation premium and payroll in at least two states other than Massachusetts, need have only \$100,000 or more in countrywide workers' compensation premium to be eligible to be written on large deductible plans. Premium determinations for this purpose shall not include self-insurance "premium."
 - (b) The policies may not provide cancellation provisions that differ in any respect from those contained in the standard Massachusetts workers' compensation policy.
 - (c) A reasonable aggregate deductible limit must be included. For insureds having less than \$500,000 in countrywide worker's compensation premium, such aggregate limit may not exceed three times standard premium.
 - (d) The per claim deductible shall be at least \$75,000.
 - (e) Policy forms, rates, and deductible endorsements must be filed with and approved by the Division of Insurance before use. Rates must be convertible to approved retrospectively rated programs, using the most recently approved parameters, in a manner acceptable to the Division. The Division shall make available to companies an example of an approvable rate structure on or before May 1, 2003.

Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.

211 CMR 115.06 Failure to comply

Failure to comply with 211 CMR 115.000 is a violation of Massachusetts law and, in addition to any other applicable penalties, may result in the withdrawal of permission to write any new or renewal deductible policies. Companies or company groups that have forfeited the right to write deductible policies may apply to the Commissioner for eligibility to write such policies no sooner than two years from the date of withdrawal of permission.

Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.

211 CMR 115.07 Effective date

The provisions 211 CMR 115.00 shall be effective as of May 1, 2003.

Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.

211 CMR 115.08 Severability

If any section or portion of a section of 211 CMR 115.00 or the applicability thereof to any person, entity or circumstance is held invalid by a court, the remainder of 211 CMR 115.00 or the applicability of such provision to other persons, entities or circumstances, shall not be affected thereby.

Authority.-- 211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A; c. 175, §§ 3A, 4, 5 and 6; c. 176D.